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Castella Imports, Clara Cortes, Chris Valsamos,  
Nicole Morello and Robert Roberts

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

SGT. JAMESON WARREN,

Plaintiff,

-against-

CASTELLA IMPORTS, CLARA CORTES,  
CHRIS VALSAMOS, NICOLE MORELLO AND  
ROBERT ROBERTS,

Defendants.

No.: 2:18-cv-04740

**DEFENDANTS' ANSWER AND  
AFFIRMATIVE DEFENSES**

**ANSWER**

Defendants Castella Imports, Clara Cortes, Chris Valsamos, Nicole Morello, and Robert Roberts (collectively, the “Defendants”), by way of Answer and Affirmative Defenses to the Verified Complaint filed and served by Plaintiff, Sgt. Jameson Warren (“Plaintiff”), state as follows:

**AS TO “PRELIMINARY STATEMENT”**

1. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Verified Complaint.
2. Defendants are without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in paragraph 2 of the Verified Complaint.

3. Defendants deny the allegations contained in paragraph 3 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

4. Defendants deny the allegations contained in paragraph 4 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

5. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Verified Complaint.

**AS TO “JURISDICTION” AND “VENUE”**

6. Defendants neither admit nor deny the allegations contained in paragraph 6, because paragraph 6 does not contain any factual allegations to which a response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph 6 of the Verified Complaint.

7. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Verified Complaint.

8. Defendants deny the allegations contained in paragraph 8, except to admit that Castella Imports is located at 60 Davids Drive, Hauppauge, NY 11788. The remaining allegations contained in paragraph 8 of the Verified Complaint are expressly denied.

9. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Verified Complaint.

**AS TO “ADMINISTRATIVE PROCEDURAL HISTORY”**

10. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Verified Complaint.

11. Defendants are without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in paragraph 11 of the Verified Complaint.

12. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Verified Complaint.

**AS TO “MILITARY SERVICE HISTORY OF PLAINTIFF SERGEANT WARREN**

13. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Verified Complaint.

14. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Verified Complaint.

15. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Verified Complaint.

16. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Verified Complaint.

17. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Verified Complaint.

18. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Verified Complaint.

19. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Verified Complaint.

20. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Verified Complaint.

21. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Verified Complaint.

22. Defendants are without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in paragraph 22 of the Verified Complaint.

23. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Verified Complaint.

24. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 24 of the Verified Complaint.

**AS TO “PLAINTIFF SERGEANT WARREN”**

25. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 25 of the Verified Complaint.

**AS TO “THE DEFENDANTS”**

26. Defendants neither admit nor deny the allegations contained in paragraph 26, because paragraph 26 does not contain any factual allegations to which a response is required. To the extent a response is required, denied.

27. Defendants deny the allegations of paragraph 27, which in any event state legal conclusions as to which no response is required.

28. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 28 of the Verified Complaint.

29. Defendants deny the allegations in paragraph 29 of the Verified Complaint and respectfully refer all legal interpretations of the phrase “employment opportunities” to the Court.

30. Defendants deny the allegations in paragraph 30 of the Verified Complaint and respectfully refer all legal interpretations of the phrase “employment opportunities” to the Court.

31. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Verified Complaint.

32. Defendants are without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in paragraph 32 of the Verified Complaint.

33. Defendants neither admit nor deny the allegations contained in paragraph 33, because paragraph 33 does not contain any factual allegations to which a response is required. To the extent a response is required, deny.

34. Defendants deny the allegations of paragraph 34, which in any event state legal conclusions as to which no response is required.

35. Defendants deny the allegations of paragraph 35, which in any event state legal conclusions as to which no response is required.

36. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Verified Complaint.<sup>1</sup>

**AS TO “THE USERRA CLAIM OF PLAINTIFF SERGEANT WARREN”**

37. Defendants deny the allegations contained in paragraph 37 of the Verified Complaint.

38. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Verified Complaint.

39. Defendants deny the allegations contained in paragraph 39 of the Verified Complaint.

40. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Verified Complaint.

41. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the Verified Complaint.

42. Defendants are without knowledge or information sufficient to form a belief as to

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<sup>1</sup> Defendants note that the “allegations” in paragraph 36 appear to be “copied and pasted” from Defendants’ website, which speaks for itself.

the truth of the allegations contained in paragraph 42 of the Verified Complaint.

43. Defendants deny the allegations contained in paragraph 43 of the Verified Complaint.

**AS TO “EMPLOYMENT HISTORY OF PLAINTIFF SERGEANT WARREN AT  
DEFENDANT CASTELLA IMPORTS**

44. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Verified Complaint.

45. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Verified Complaint.

46. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Verified Complaint.

47. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Verified Complaint.

48. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of the Verified Complaint.

49. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the Verified Complaint.

50. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Verified Complaint.

51. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of the Verified Complaint.

52. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Verified Complaint.

53. Defendants are without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in paragraph 53 of the Verified Complaint.<sup>2</sup>

54. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of the Verified Complaint.

**AS TO “ONBOARDING’ PLAINTIFF SERGEANT WARREN”**

55. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Verified Complaint.

56. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Verified Complaint.

57. Defendants deny the allegations contained in paragraph 57 of the Verified Complaint.

58. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the Verified Complaint.

59. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the Verified Complaint.

60. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Verified Complaint.

61. Defendants deny the allegations contained in paragraph 61 of the Verified Complaint.

62. Defendants deny the allegations contained in paragraph 62 of the Verified Complaint.

63. Defendants deny the allegations contained in paragraph 63 of the Verified

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<sup>2</sup> Paragraph 53 appears to omit a word or phrase and thus is unintelligible as written.

Complaint.

64. Defendants deny the allegations contained in paragraph 64 of the Verified Complaint.

**AS TO “INCREASED RESPONSIBILITIES FOR PLAINTIFF SERGEANT WARREN”**

65. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the Verified Complaint.

66. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of the Verified Complaint.

67. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the Verified Complaint.

68. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 of the Verified Complaint.

69. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Verified Complaint.

70. Defendants deny the allegations contained in paragraph 70 of the Verified Complaint.

71. Defendants deny the allegations contained in paragraph 71 of the Verified Complaint.

72. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of the Verified Complaint.

73. Defendants deny the allegations contained in paragraph 73 of the Verified Complaint.

74. Defendants deny the allegations contained paragraph 74 of the Verified



Complaint.

**AS TO “JOHN CASARES LEAVES DEFENDANT CASTELLA IMPORTS”**

75. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the Verified Complaint.

76. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Verified Complaint.

77. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Verified Complaint.

78. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the Verified Complaint.

79. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 of the Verified Complaint.

**AS TO “PLAINTIFF SERGEANT WARREN’S PROMOTION”**

80. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 80 of the Verified Complaint.

81. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of the Verified Complaint.

82. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of the Verified Complaint.

83. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 83 of the Verified Complaint.

84. Defendants deny the allegations contained in paragraph 84 of the Verified Complaint.

85. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 85 of the Verified Complaint.

86. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 86 of the Verified Complaint.

**AS TO “PLAINTIFF SERGEANT WARREN DESIGNS THE BRENTWOOD  
DISTRIBUTION FACILITY”**

87. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 of the Verified Complaint.

88. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of the Verified Complaint.

89. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 89 of the Verified Complaint.

90. Defendants deny the allegations contained in paragraph 90 of the Verified Complaint.

91. Defendants deny the allegations contained in paragraph 91 of the Verified Complaint.

92. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 92 of the Verified Complaint.

93. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 of the Verified Complaint.

94. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 94 of the Verified Complaint.

95. Defendants deny the allegations contained in paragraph 95 of the Verified Complaint.

**AS TO “DEFENDANT CASTELLA IMPORTS FAILS TO CREDIT AND EVALUATE  
THE JOB PERFORMANCE OF PLAINTIFF SERGEANT WARREN**

96. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 96 of the Verified Complaint.

97. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 97 of the Verified Complaint.

98. Defendants deny the allegations contained in paragraph 98 of the Verified Complaint.

99. Defendants deny the allegations contained in paragraph 99 of the Verified Complaint.

100. Defendants deny the allegations contained in paragraph 100 of the Verified Complaint.

101. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 101 of the Verified Complaint.

102. Defendants deny the allegations contained in paragraph 102 of the Verified Complaint.

103. Defendants deny the allegations contained in paragraph 103 of the Verified Complaint.

104. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 104 of the Verified Complaint.

**AS TO “PLAINTIFF SERGEANT WARREN WAS NOT CONSIDERED FOR  
PROMOTION AND SUFFERED ADVERSE EMPLOYMENT ACTIONS DUE TO HIS  
ONGOING MILITARY SERVICE IN THE UNITED STATES ARMY”**

105. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 105 of the Verified Complaint.

106. Defendants deny the allegations contained in paragraph 106 of the Verified Complaint.

107. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of the Verified Complaint.

108. Defendants deny the allegations of paragraph 108, which in any event state legal conclusions as to which no response is required.

109. Defendants deny the allegations of paragraph 109, which in any event state legal conclusions as to which no response is required.

110. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 110 of the Verified Complaint.

111. Defendants deny the allegations contained in paragraph 111 of the Verified Complaint.

112. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 112 of the Verified Complaint.

113. Defendants deny the allegations contained in paragraph 113 of the Verified Complaint.<sup>3</sup>

114. Defendants deny the allegations contained in paragraph 114 of the Verified Complaint.

115. Defendants deny the allegations contained in paragraph 115 of the Verified Complaint.

116. Defendants deny the allegations contained in paragraph 116 of the Verified Complaint.

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<sup>3</sup> Paragraph 113 appears to omit a word or phrase and thus is unintelligible as written.

117. Defendants deny the allegations contained in paragraph 117 of the Verified Complaint.

118. Defendants deny the allegations contained in paragraph 118 of the Verified Complaint.

119. Defendants deny the allegations contained in paragraph 119 of the Verified Complaint.

**AS TO “REMOVING PLAINTIFF FROM BRENTWOOD  
FACILITY DECISION MAKING**

120. Defendants deny the allegations contained in paragraph 120 of the Verified Complaint.

121. Defendants deny the allegations contained in paragraph 121 of the Verified Complaint.

122. Defendants deny the allegations contained in paragraph 122 of the Verified Complaint.

123. Defendants deny the allegations contained in paragraph 123 of the Verified Complaint.

124. Defendants deny the allegations contained in paragraph 124 of the Verified Complaint.

125. Defendants deny the allegations contained in paragraph 125 of the Verified Complaint.

126. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 126 of the Verified Complaint.

127. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 127 of the Verified Complaint.

128. Defendants deny the allegations contained in paragraph 128 of the Verified Complaint. To the extent paragraph 128 refers to a document, Defendants state that the document speaks for itself.

129. Defendants deny the allegations contained in paragraph 129 of the Verified Complaint.

130. Defendants deny the allegations contained in paragraph 130 of the Verified Complaint.

**AS TO “THE WRITE-UPS AND TERMINATION OF PLAINTIFF SERGEANT  
WARREN JUST PRIOR TO HIS DEPLOYMENT**

131. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 131 of the Verified Complaint.

132. Defendants deny the allegations contained in paragraph 132 of the Verified Complaint.

133. Defendants deny the allegations contained in paragraph 133 of the Verified Complaint. To the extent paragraph 133 refers to a document, Defendants state that the document speaks for itself.

134. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 134 of the Verified Complaint.

135. Defendants deny the allegations contained in paragraph 135 of the Verified Complaint.

136. Defendants deny the allegations contained in paragraph 136 of the Verified Complaint.

137. Defendants deny the allegations contained in paragraph 137 of the Verified Complaint. To the extent paragraph 137 refers to a document, Defendants state that the

document speaks for itself.

138. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 138 of the Verified Complaint.

139. Defendants deny the allegations contained in paragraph 139 of the Verified Complaint. To the extent paragraph 139 refers to a document, Defendants state that the document speaks for itself.

140. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 140 of the Verified Complaint.

141. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 141 of the Verified Complaint.

142. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 142 of the Verified Complaint.

143. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 143 of the Verified Complaint.

144. Defendants deny the allegations contained in paragraph 144 of the Verified Complaint.

145. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 145 of the Verified Complaint.

146. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 146 of the Verified Complaint.

147. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 147 of the Verified Complaint.

148. Defendants are without knowledge or information sufficient to form a belief as to

the truth of the allegations contained in paragraph 148 of the Verified Complaint.<sup>4</sup>

149. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 149 of the Verified Complaint.

150. Defendants deny the allegations contained in paragraph 150 of the Verified Complaint.

151. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 151 of the Verified Complaint.

152. Defendants deny the allegations contained in paragraph 152 of the Verified Complaint.

153. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 153 of the Verified Complaint.

154. Defendants deny the allegations contained in paragraph 154, which in any event state legal conclusions as to which no response is required.

155. Defendants deny the allegations contained in paragraph 155 of the Verified Complaint.

156. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 156 of the Verified Complaint.

157. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 157 of the Verified Complaint.

158. Defendants deny the allegations contained in paragraph 158 of the Verified Complaint. To the extent paragraph 158 refers to a document, Defendants state that the document speaks for itself.

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<sup>4</sup> Paragraph 148 appears to omit a word or phrase and thus is unintelligible as written.



159. Defendants deny the allegations contained in paragraph 159 of the Verified Complaint. To the extent paragraph 159 refers to a document, Defendants state that the document speaks for itself.

160. Defendants deny the allegations contained in paragraph 160 of the Verified Complaint. To the extent paragraph 160 refers to a document, Defendants state that the document speaks for itself.

161. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 161 of the Verified Complaint.

162. Defendants deny the allegations contained in paragraph 162 of the Verified Complaint. To the extent paragraph 162 refers to a document, Defendants state that the document speaks for itself.

**AS TO “THE FIRST ‘WRITE-UP’ OF PLAINTIFF SERGEANT WARREN”**

163. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 163 of the Verified Complaint.

164. Defendants deny the allegations contained in paragraph 164 of the Verified Complaint. To the extent paragraph 164 refers to a document, Defendants state that the document speaks for itself.

165. Defendants deny the allegations contained in paragraph 165 of the Verified Complaint.

166. Defendants deny the allegations contained in paragraph 166 of the Verified Complaint. To the extent paragraph 166 refers to a document, Defendants state that the document speaks for itself.

167. Defendants deny the allegations contained in paragraph 167 of the Verified

Complaint. To the extent paragraph 167 refers to a document, Defendants state that the document speaks for itself.

168. Defendants deny the allegations contained in paragraph 168 of the Verified Complaint. To the extent paragraph 168 refers to a document, Defendants state that the document speaks for itself.

169. Defendants deny the allegations contained in paragraph 169 of the Verified Complaint. To the extent paragraph 169 refers to a document, Defendants state that the document speaks for itself.

170. Defendants deny the allegations contained in paragraph 170 of the Verified Complaint. To the extent paragraph 170 refers to a document, Defendants state that the document speaks for itself.

171. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 171 of the Verified Complaint.

172. Defendants deny the allegations contained in paragraph 172 of the Verified Complaint. To the extent paragraph 172 refers to a document, Defendants state that the document speaks for itself.

173. Defendants deny the allegations contained in paragraph 173 of the Verified Complaint. To the extent paragraph 173 refers to a document, Defendants state that the document speaks for itself.

174. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 174 of the Verified Complaint.

**AS TO “PLAINTIFF SERGEANT WARREN WAS SUBJECTED TO UNNECESSARY,  
UNWARRANTED, AND INAPPROPRIATE ELECTRONIC SURVEILLANCE**

175. Defendants deny the allegations contained in paragraph 175 of the Verified

Complaint. To the extent paragraph 175 refers to a document, Defendants state that the document speaks for itself.

176. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 176 of the Verified Complaint.

177. Defendants deny the allegations contained in paragraph 177 of the Verified Complaint.

**AS TO “PRETEXTUAL TREATMENT OF SERGEANT WARREN”**

178. Defendants deny the allegations contained in paragraph 178 of the Verified Complaint. To the extent paragraph 178 refers to various document(s), Defendants state that the document(s) speak/speaks for it/themselves.

179. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 179 of the Verified Complaint.

180. Defendants deny the allegations contained in paragraph 180 of the Verified Complaint.

181. Defendants deny the allegations contained in paragraph 181 of the Verified Complaint.

182. Defendants deny the allegations contained in paragraph 182 of the Verified Complaint.

**AS TO “DEFENDANT CASTELLA IMPORTS EMPLOYEE POLICY MANUAL”**

183. Defendants deny the allegations contained in paragraph 183 of the Verified Complaint. To the extent paragraph 183 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

184. Defendants deny the allegations contained in paragraph 184 of the Verified

Complaint. To the extent paragraph 184 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

185. Defendants deny the allegations contained in paragraph 185 of the Verified Complaint. To the extent paragraph 185 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

186. Defendants deny the allegations contained in paragraph 186 of the Verified Complaint. To the extent paragraph 186 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

**AS TO “RETALIATION”**

187. Defendants deny the allegations contained in paragraph 187 of the Verified Complaint. To the extent paragraph 187 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

188. Defendants deny the allegations contained in paragraph 188 of the Verified Complaint. To the extent paragraph 188 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

189. Defendants deny the allegations contained in paragraph 189 of the Verified Complaint. To the extent paragraph 189 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

**AS TO “BENEFITS”**

190. Defendants deny the allegations contained in paragraph 190 of the Verified Complaint. To the extent paragraph 190 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

191. Defendants deny the allegations contained in paragraph 191 of the Verified Complaint. To the extent paragraph 191 refers to the Employee Policy Manual of Castella

Imports, Defendants state that the document speaks for itself.

192. Defendants deny the allegations contained in paragraph 192 of the Verified Complaint. To the extent paragraph 192 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

**AS TO “MILITARY LEAVES OF ABSENCE”**

193. Defendants deny the allegations contained in paragraph 193 of the Verified Complaint. To the extent paragraph 193 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

194. Defendants deny the allegations contained in paragraph 194 of the Verified Complaint. To the extent paragraph 194 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

195. Defendants deny the allegations contained in paragraph 195 of the Verified Complaint. To the extent paragraph 195 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

196. Defendants deny the allegations contained in paragraph 196 of the Verified Complaint. To the extent paragraph 196 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

**AS TO “ELECTRONIC COMMUNICATIONS POLICY”**

197. Defendants deny the allegations contained in paragraph 197 of the Verified Complaint. To the extent paragraph 197 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

198. Defendants deny the allegations contained in paragraph 198 of the Verified

Complaint. To the extent paragraph 198 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

199. Defendants deny the remaining allegations contained in paragraph 199 of the Verified Complaint. To the extent paragraph 199 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

200. Defendants deny the allegations contained in paragraph 200 of the Verified Complaint. To the extent paragraph 200 refers to the Employee Policy Manual of Castella Imports, Defendants state that the document speaks for itself.

**AS TO “DEFENDANTS WERE AWARE OF PLAINTIFF’S RIGHTS AS A MEMBER  
OF THE UNITED STATES ARMY”**

201. Defendants deny the allegations contained in paragraph 201 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

202. Defendants deny the allegations contained in paragraph 202 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

203. Defendants deny the allegations contained in paragraph 203 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

204. Defendants deny the allegations contained in paragraph 204 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

205. Defendants deny the allegations contained in paragraph 205 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

206. Defendants deny the allegations contained in paragraph 206 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

207. Defendants deny the allegations contained in paragraph 207 of the Verified Complaint, which in any event state legal conclusions as to which no response is required.

**AS TO “DAMAGES”**

208. Defendants deny the allegations contained in paragraph 208 of the Verified Complaint.

**AS TO “THE FIRST CAUSE OF ACTION: DISCRIMINATION UNDER USERRA”**

209. Defendants deny the allegations contained in paragraph 209 of the Verified Complaint.

210. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 210 of the Verified Complaint.

211. Defendants deny the allegations contained in paragraph 211 of the Verified Complaint.

212. Defendants deny the allegations contained in paragraph 212 of the Verified Complaint.

213. Defendants deny the allegations contained in paragraph 213 of the Verified Complaint.

214. Defendants deny the allegations contained in paragraph 214 of the Verified Complaint.

215. Defendants deny the allegations contained in paragraph 215 of the Verified Complaint.

216. Defendants deny the allegations contained in paragraph 216 of the Verified Complaint.

**AS TO “THE SECOND CAUSE OF ACTION: RETALIATION UNDER USERRA”**

217. Defendants deny the allegations contained in paragraph 217 of the Verified Complaint.

218. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 218 of the Verified Complaint.

219. Defendants neither admit nor deny the allegations contained in paragraph 219, because paragraph 219 does not contain any factual allegations to which a response is required. Further, paragraph 219 of the Verified Complaint states legal conclusions as to which no response is required. To the extent a response is required, denied.

220. Defendants deny the allegations contained in paragraph 220 of the Verified Complaint.

221. Defendants deny the allegations contained in paragraph 221 of the Verified Complaint.

222. Defendants deny the allegations contained in paragraph 222 of the Verified Complaint.

223. Defendants deny the allegations contained in paragraph 223 of the Verified Complaint.

224. Defendants deny the allegations contained in paragraph 224 of the Verified Complaint.

**AS TO “THE THIRD CAUSE OF ACTION: BREACH OF CONTRACT”**

225. Defendants deny the allegations contained in paragraph 225 of the Verified Complaint.

226. Defendants deny the allegations contained in paragraph 226 of the Verified Complaint.

227. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 227 of the Verified Complaint.



228. Defendants deny the allegations contained in paragraph 228 of the Verified Complaint.

229. Defendants deny the allegations contained in paragraph 229 of the Verified Complaint.

230. Defendants deny the allegations contained in paragraph 230 of the Verified Complaint.

231. Paragraph 231 of the Verified Complaint states legal conclusions as to which no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 231 of the Verified Complaint.

232. Defendants deny the allegations contained in paragraph 232 of the Verified Complaint.

233. Defendants deny the allegations contained in paragraph 233 of the Verified Complaint.

234. Defendants deny the allegations contained in paragraph 234 of the Verified Complaint.

235. Defendants deny the allegations contained in paragraph 235 of the Verified Complaint.

236. Defendants deny the allegations contained in paragraph 236 of the Verified Complaint.

237. Defendants deny the allegations contained in paragraph 237 of the Verified Complaint.

238. Defendants deny the allegations contained in paragraph 238 of the Verified

Complaint.

239. Defendants deny the allegations contained in paragraph 239 of the Verified Complaint.

240. Defendants deny the allegations contained in paragraph 240 of the Verified Complaint.

241. Defendants deny the allegations contained in paragraph 241 of the Verified Complaint.

242. Defendants deny the allegations contained in paragraph 242 of the Verified Complaint.

243. Defendants deny the allegations contained in paragraph 243 of the Verified Complaint.

244. Defendants deny the allegations contained in paragraph 244 of the Verified Complaint.

245. Defendants deny the allegations contained in paragraph 245 of the Verified Complaint.

246. Defendants deny the allegations contained in paragraph 246 of the Verified Complaint.

247. Defendants deny the allegations contained in paragraph 247 of the Verified Complaint.

248. Defendants deny the allegations contained in paragraph 248 of the Verified Complaint.

249. Defendants deny the allegations contained in paragraph 249 of the Verified Complaint.

250. Defendants deny the allegations contained in paragraph 250 of the Verified Complaint.

251. Defendants deny the allegations contained in paragraph 251 of the Verified Complaint.

252. Defendants deny the allegations contained in paragraph 252 of the Verified Complaint.

**AS TO “THE FOURTH CAUSE OF ACTION: DEFAMATION, SLANDER, AND  
LIBEL”**

253. Defendants deny the allegations contained in paragraph 253 of the Verified Complaint.

254. Defendants deny the allegations contained in paragraph 254 of the Verified Complaint.

255. Defendants deny the allegations contained in paragraph 255 of the Verified Complaint.

256. Defendants deny the allegations contained in paragraph 256 of the Verified Complaint.

257. Defendants deny the allegations contained in paragraph 257 of the Verified Complaint.

258. Defendants deny the allegations contained in paragraph 258 of the Verified Complaint.

259. Defendants deny the allegations contained in paragraph 259 of the Verified Complaint.

260. Defendants deny the allegations contained in paragraph 260 of the Verified Complaint.

261. Defendants deny the allegations contained in paragraph 261 of the Verified Complaint.

262. Defendants deny the allegations contained in paragraph 262 of the Verified Complaint.

263. Defendants deny the allegations contained in paragraph 263 of the Verified Complaint.

264. Defendants deny the allegations contained in paragraph 264 of the Verified Complaint.

265. Defendants deny the allegations contained in paragraph 265 of the Verified Complaint.

266. Defendants deny the allegations contained in paragraph 266 of the Verified Complaint.

267. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 267 of the Verified Complaint.

268. Defendants deny the allegations contained in paragraph 268 of the Verified Complaint.

269. Defendants deny the allegations contained in paragraph 269 of the Verified Complaint.

270. Defendants deny the allegations contained in paragraph 270 of the Verified Complaint.

271. Defendants deny the allegations contained in paragraph 271 of the Verified Complaint.

272. Defendants deny the remaining allegations contained in paragraph 272 of the

Verified Complaint.

273. Defendants deny the allegations contained in paragraph 273 of the Verified Complaint.

274. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 274 of the Verified Complaint.

275. Defendants deny the allegations contained in paragraph 275 of the Verified Complaint.

276. Defendants deny the allegations contained in paragraph 276 of the Verified Complaint.

277. Defendants deny the allegations contained in paragraph 277 of the Verified Complaint.

278. Defendants deny the allegations contained in paragraph 278 of the Verified Complaint.

279. Defendants deny the allegations contained in paragraph 279 of the Verified Complaint.

280. Defendants deny the allegations contained in paragraph 280 of the Verified Complaint.

281. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 281 of the Verified Complaint.

282. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 282 of the Verified Complaint.

283. Defendants deny the allegations contained in paragraph 283 of the Verified Complaint.

284. Defendants deny the allegations contained in paragraph 284 of the Verified Complaint.

285. Defendants deny the allegations contained in paragraph 285 of the Verified Complaint.

286. Defendants deny the allegations contained in paragraph 286 of the Verified Complaint.

**AS TO “THE FIFTH CAUSE OF ACTION: NEW YORK STATE EXECUTIVE LAW  
DISCRIMINATION”**

287. Defendants deny the allegations contained in paragraph 287 of the Verified Complaint.

288. Defendants deny the allegations contained in paragraph 288 of the Verified Complaint.

289. Defendants deny the allegations contained in paragraph 289 of the Verified Complaint.

290. Paragraph 290 of the Verified Complaint contains a legal conclusion as to which no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph 290 of the Verified Complaint.

291. Defendants deny the allegations contained in paragraph 291 of the Verified Complaint.

292. Defendants deny the allegations contained in paragraph 292 of the Verified Complaint.

293. Defendants deny the allegations contained in paragraph 293 of the Verified Complaint.

**AS TO “THE SIXTH CAUSE OF ACTION: RETALIATION UNDER NEW YORK  
STATE EXECUTIVE LAW”**

294. Defendants deny the allegations contained in paragraph 294 of the Verified Complaint.

295. Paragraph 295 of the Verified Complaint contains a legal conclusion as to which no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph 295 of the Verified Complaint.

296. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 296 of the Verified Complaint.

297. Paragraph 297 of the Verified Complaint contains a legal conclusion as to which no response is required. To the extent a response is required, the Defendants deny the allegations contained in paragraph 297 of the Verified Complaint.

298. Defendants deny the allegations contained in paragraph 298 of the Verified Complaint.

299. Defendants deny the allegations contained in paragraph 299 of the Verified Complaint.

300. Defendants deny the allegations contained in paragraph 300 of the Verified Complaint.

301. Defendants deny the allegations contained in paragraph 301 of the Verified Complaint.

302. Defendants deny the allegations contained in paragraph 302 of the Verified Complaint.

## **AFFIRMATIVE DEFENSES**

### **FIRST DEFENSE**

Defendants deny each and every allegation not specifically admitted.

### **SECOND DEFENSE**

The Verified Complaint fails to state a claim upon which relief can be granted.

### **THIRD DEFENSE**

The Verified Complaint is barred in whole or in part by the doctrines of laches, waiver, unclean hands, and/or estoppel.

### **FOURTH DEFENSE**

The Verified Complaint is barred in whole or in part by Plaintiff's failure to mitigate his damages.

### **FIFTH DEFENSE**

Plaintiff's termination from employment was based on legitimate, non-discriminatory business reasons.

### **SIXTH DEFENSE**

Defendants engaged in no acts of discrimination whatsoever in relation to Plaintiff's employment with Defendants.

### **SEVENTH DEFENSE**

Defendants engaged in no acts of retaliation for Plaintiff's filing of a USERRA complaint against Defendants.

### **EIGHTH DEFENSE**

Defendants engaged in no defamatory acts in relation to taking disciplinary action against Plaintiff for violations of company policies and procedures.



**NINTH DEFENSE**

Plaintiff was an at-will employee and, as such, could be terminated at any time for any non-discriminatory reason.

**TENTH DEFENSE**

Defendants breached no obligation owed to Plaintiff, whether arising from contract, statute, regulation or rule.

**ELEVENTH DEFENSE**

Plaintiff's alleged damages were caused by Plaintiff's own conduct.

**TWELFTH DEFENSE**

Plaintiff's claims are time bared by the applicable statute of limitations.

**THIRTEENTH DEFENSE**

Defendants reserve the right to assert such additional separate defenses based on such facts as may be revealed during discovery in this action.

**JURY DEMAND**

A trial by jury is demanded as to all issues.

**WHEREFORE**, Defendants deny that Plaintiff is entitled to the relief requested and request that the Verified Complaint be dismissed with prejudice, and that Defendants be awarded reasonable attorneys' fees, interest, costs of suit and such other relief as the Court deems just and proper.

Dated: December 7, 2018  
New York, NY

**CALLAHAN & FUSCO LLC**

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